

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**PPM Energy, Inc.**  
**Rugby Wind Farm-Pierce County**  
**Siting Application**

**Case No. PU-05-47**

**ORDER GRANTING INTERVENTION**

**September 7, 2005**

On June 16, 2005, PPM Energy, Inc. (PPM) filed an application for a Certificate of Site Compatibility for the Rugby Wind Farm (Case No. PU-05-47) and an Application for a Certificate of Corridor Compatibility and Route Permit for the Rugby Wind Farm Transmission Line (Case No. PU-05-305).

On June 29, 2005 the Commission issued its Notice of Filing and Notice of Hearing scheduling a public hearing on the applications for July 29, 2005 beginning at 9 a.m. in Rugby. The Notice of Filing and Notice of Hearing and map were published in the Pierce County Tribune as required by law on July 9 and July 23, 2005.

On August 17, 2005, the Commission received a Petition to Intervene in Case Nos. PU-05-47 and PU-05-305 from J T McIntire. J T and Roberta McIntire own a small parcel of property within the area of the wind farm.

The Commission received correspondence and information from J T McIntire on August 2, August 9, and August 17 stating his opinions and opposition to the wind farm project.

On August 23, 2005, PPM filed a Response to the Petition to Intervene.

North Dakota law provides authority for granting interventions and for imposing conditions and limitations upon intervention. North Dakota Century Code Section 28-32-28 provides that "[a]n administrative agency may grant intervention in an adjudicative proceeding to promote the interests of justice if intervention will not impair the orderly and prompt conduct of the proceeding and if the petitioning intervenor demonstrates that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of statute or rule. The agency may impose conditions and limitations upon intervention."

North Dakota Administrative Code Section 69-02-02-05 provides that "[a]ny person with a substantial interest in a proceeding may petition to intervene in that proceeding. . . ." The rule provides that an intervention may be granted if the person has a legal interest which may be substantially affected by the proceeding and if the

intervention would not unduly broaden the issues or delay the proceeding. Subsection 2 provides that “[a] petition to intervene in any proceeding must be filed at least ten days prior to the hearing, but not after except for good cause.”

The McIntires have not met the requirement under North Dakota Administrative Code Section 69-02-02-05 of filing the petition to intervene at least ten days prior to the hearing. Under the rule, a petition to intervene may not be filed after the hearing except for good cause.

The Commission has the authority under North Dakota Administrative Code Section 69-02-02-05(2) to grant a petition filed after the hearing upon good cause and has the authority under both North Dakota Century Code Section 28-32-28 and North Dakota Administrative Code Section 69-02-02-05 to impose conditions and limitations upon intervention. J T and Roberta McIntire did appear and Roberta McIntire did testify at the hearing on this matter on July 29, 2005. According to the McIntires’ statements, a wind turbine is proposed to be located within 1,400 feet of their residence. The McIntires have expressed specific concerns relating to the placement of a wind turbine near their property. The exact turbine locations have not been identified, and some further proceeding before the Commission will be required to approve the turbine locations.

The McIntires have met the requirement of North Dakota Century Code Section 28-32-28 by demonstrating that their legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the Rugby Wind Farm proceeding.

### **Order**

The Commission orders:

1. The correspondence received from J T McIntire be included in the record to demonstrate the McIntires’ objection to the applications.
2. The petition to intervene in Case No. PU-05-47 is granted for the limited purpose of participation in the future proceeding or proceedings that will be scheduled by the Commission for approval of turbine site locations and that participation be limited to the issues identified and raised by the Commission for those proceedings.

### **PUBLIC SERVICE COMMISSION**

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**Susan E. Wefald**  
**Commissioner**

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**Tony Clark**  
**President**

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**Kevin Cramer**  
**Commissioner**

